



(Billing Code 7510-13)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1816, 1832, 1842, and 1852

RIN 2700-AE34

NASA Federal Acquisition Regulation Supplement: Revised Voucher Submission & Payment Process (NFS Case 2016-N025)

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule.

SUMMARY: NASA is issuing an interim rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to implement revisions to the voucher submittal and payment process. These revisions are necessary due to section 893 of the National Defense Authorization Act for Fiscal Year 2016 prohibiting the Defense Contract Audit Agency (DCAA) from performing audit work for non-Defense Agencies. NASA had delegated to DCAA the task of reviewing contractor requests for payment under NASA cost-type contracts.

DATES: *Effective:* **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by NFS Case 2016-N025, using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "NFS Case 2016-N025" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "NFS Case 2016-N025." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "NFS Case 2016-N025" on your attached document.

- o E-mail: John.J.Lopez@nasa.gov. Include NFS Case 2016-N025 in the subject line of the message.

- o Fax: (202) 358-3082.

- o Mail: National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: John J. Lopez, LP-011, 300 E. Street SW, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Lopez, NASA HQ, Office of Procurement, Contract and Grant Policy Division, LP-011, 300 E. Street SW, Washington, DC 20456-0001. Telephone 202-358-3740; facsimile 202-358-3082.

SUPPLEMENTARY INFORMATION:

I. Background: This interim rule revises the NFS to implement revisions to the voucher submittal and payment process. These

revisions are necessary due to section 893 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92) prohibiting DCAA from performing audit work for non-Defense Agencies. Section 893 prohibits DCAA from performing audit work for non-Defense Agencies until DCAA's backlog of incurred cost audits is below 18 months. DCAA's current backlog of cost audits is greater than 18 months. NASA had delegated to DCAA the task of reviewing contractor requests for payment under its cost-type contracts. As a result of section 893, DCAA has ceased cost voucher audit support to NASA, in turn, jeopardizing timely payment to contractors for work performed. NASA has revised its cost voucher submission and payment process to ensure the continued prompt payment to its suppliers. Accordingly, the NFS needs to be immediately revised to implement procedural changes to minimize cost voucher submission and payment delays to NASA suppliers as well the potential accrual of Government interest payments to contractors.

II. Discussion

Sections of the NFS are being revised to implement changes to NASA's voucher submission and payment process. Specifically, NASA is-

- Deleting the outdated clause prescription at NFS 1816.307-70(e) and associated clause at NFS 1852.216-87 relating to the submission of vouchers for payment;

- Establishing a new clause prescription at NFS 1832.908-70 and associated clause at 1852.232-80 relative to the submission of vouchers for payment that reflects electronic submittal of vouchers and NASA resources processing these payment requests versus DCAA;
- Deleting NFS section 1842.7101(a) and (b) because DCAA is no longer processing vouchers for NASA; thus this guidance is no longer needed; and
- Deleting NFS section 1842.7101(c) because the requirement of submitting additional hard copies of Standard Form 1034 and Standard Form 1035A to the General Services Administration (GSA) is no longer required. This outdated process is being replaced by electronic submissions.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory

action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the guidance will not create additional burden to the contractor but rather the rule is intended to update the current voucher submission process at NASA, which will result in fewer voucher rejections, rework, and payment delays. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

NASA is revising the NFS to implement revisions to the voucher submittal and payment process. These revisions are necessary due to section 893 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92) prohibiting DCAA from performing audit work for non-Defense Agencies.

The objective of this rule is to remove the outdated NFS payment clause and associated prescription relative to the NASA voucher submittal and payment process and replace with a new clause that will revamp NASA's cost voucher submission and payment process to ensure the continued prompt payment to its suppliers. The

revision will also minimize cost voucher submission and payment delays to NASA suppliers as well the potential accrual of Government interest payments to contractors.

This rule would apply to contractor requests for payment under cost reimbursement contracts. An analysis of data in the Federal Procurement Data System (FPDS) revealed that cost reimbursement contracts are primarily awarded to large businesses. FPDS data compiled over the past three fiscal years (FY2013 through FY2015) showed an average of 311 active cost reimbursement NASA contracts, of which 141 (approximately 45%) were awarded to small businesses. However, there is no significant economic or administrative cost impact to small or large businesses because the rule will have a positive benefit in the way of fewer voucher rejections, rework, and payment delays. The rule does not contain additional reporting requirements, recordkeeping, or other compliance requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternative approaches were considered, because this approach will have minimal impact on small entities.

NASA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this

rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS Case 2016-N025), in correspondence.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35); however, these changes to the NFS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000-0070, entitled Payments - FAR Sections Affected: 52.232-1 thru 52.232-4 and 52.232-6 thru 52.232-11.

VI. Determination to Issue an Interim Rule

A determination has been made under the authority of the Administrator of the National Aeronautics and Space Administration that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action to revise the submission of vouchers for payment process is necessary to avert the rejection of contractor payment requests and potential payment delays, which will result in annual cost avoidance to the Government of approximately \$383,000. In addition, we anticipate the Government potentially avoiding approximately \$134,000 in late payment interest charges.

Section 893 of the National Defense Authorization Act for Fiscal Year 2016 prohibits the Defense Contract Audit Agency (DCAA) from performing audit work for non-Defense Agencies. NASA had delegated to DCAA the task of reviewing contractor requests for payment under our cost type contracts. This interim rule is needed to ensure that contractors have the correct procedures for submitting vouchers for payment. The existing contract payment clause has submittal of vouchers to DCAA for review, however, DCAA is no longer reviewing and approving contractor payment requests for NASA. Furthermore, if contractors continue to submit payment requests to DCAA, DCAA will reject them causing a delay in contractor payments. In turn, this will cause additional effort for contractors to rework and resubmit the voucher for payment. Immediate implementation of this rule will prevent unnecessary rework and resubmission of payment requests by the contractor and preclude delayed payments resulting in annual cost avoidance of approximately \$383,000. This interim rule ensures prompt awareness of and compliance by contractors with the new submission of vouchers procedures. However, pursuant to 41 U.S.C. 1707 and FAR 1.501-3(b), NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 1816, 1832, 1842, and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1816, 1832, 1842, and 1852 are amended as follows:

1. The authority citation for parts 1816, 1832, and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1816—TYPES OF CONTRACTS

1816.307-70 [Amended]

2. Amend section 1816.307-70 by removing and reserving paragraph (e).

PART 1832—CONTRACT FINANCING

3. Add subpart 1832.9 to read as follows:

Subpart 1832.9—Prompt Payment

Sec.

1832.908 Contract clauses.

1832.908-70 Submission of Vouchers.

Subpart 1832.9—Prompt Payment

1832.908 Contract clauses.

1832.908-70 Submission of Vouchers.

Insert clause 1852.232-80, Submission of Vouchers for Payment, in all cost-reimbursement solicitations and contracts.

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

4. The authority citation for part 1842 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

Subpart 1842.71 [Removed and Reserved]

5. Remove and reserve subpart 1842.71.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.216-87 [Removed and Reserved]

6. Remove and reserve section 1852.216-87.

7. Add section 1852.232-80 to read as follows:

1852.232-80 Submission of Vouchers for Payment.

As prescribed in 1832.908-70, insert the following clause:

SUBMISSION OF VOUCHERS FOR PAYMENT

(INSERT ABBREVIATED MONTH YEAR OF DATE OF PUBLICATION IN THE
FEDERAL REGISTER)

(a) The designated payment office is the NASA Shared Services Center (NSSC) located at FMD Accounts Payable, Bldg. 1111, Jerry Hlass Road, Stennis Space Center, MS 39529.

(b) Except for classified vouchers, the Contractor shall submit all vouchers electronically using the steps described at

NSSC's Vendor Payment information web site at:

<https://www.nssc.nasa.gov/vendorpayment>. Please contact the NSSC Customer Contact Center at 1-877-NSSC123 (1-877-677-2123) with any additional questions or comments.

(c) *Payment requests.* (1) The payment periods designated in the payment clause(s) contained in this contract will begin on the date a proper request for payment is received by the NSSC payment office specified in paragraphs (a) and (b) of this section. Vouchers shall be prepared in accordance with the guidance provided by the NSSC at the following website:

https://answers.nssc.nasa.gov/app/answers/detail/a_id/6643.

(2) Vouchers shall include the items delineated in FAR 32.905(b) supported by relevant back-up documentation. Back-up documentation shall include at a minimum, the following information:

(i) Breakdown of billed labor costs and associated contractor generated supporting documentation for billed direct labor costs to include rates used and number of hours incurred.

(ii) Breakdown of billed other direct costs (ODCs) and associated contractor generated supporting documentation for billed ODCs.

(iii) Indirect rate(s) used to calculate the amount of billed indirect expenses.

(d) *Non-electronic payment.* The Contractor may submit a voucher using other than the steps described at NSSC's Vendor Payment information through any of the means described at <https://www.nssc.nasa.gov/vendorpayment>, if any of the following conditions are met:

(1) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment when the Government-wide commercial purchase card is used as the method of payment.

(2) The contract includes provision allowing the contractor to submit vouchers using other than the steps prescribed at NSSC's Vendor Payment information website. In such instances, the Contractor agrees to submit non-electronic payment requests using the method or methods specified in Section G of the contract.

(e) *Improper vouchers.* The NSSC Payment Office will notify the contractor of any apparent error, defect, or impropriety in a voucher within seven calendar days of receipt by the NSSC Payment Office. Inquiries regarding requests for payment should be directed to the NSSC as specified in paragraph (b) of this section.

(f) *Other payment clauses.* In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(g) In the event that amounts are withheld from payment in accordance with provisions of this contract, a separate payment request for the amount withheld will be required before payment for that amount may be made.

(End of clause)

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